

BEFORE THE ARIZONA BOARD OF OSTEOPATHIC EXAMINERS
IN MEDICINE AND SURGERY

IN THE MATTER OF:)	Case No.: DO-12-0081A AND DO-12-0111A
)	
AFEWORKI KIDANE, D.O.)	FINDINGS OF FACT,
Holder of License No. 4458)	CONCLUSIONS OF LAW, AND
)	ORDER
)	
For the practice of osteopathic medicine in)	
the State of Arizona)	

On January 25, 2014, the Arizona Board of Osteopathic Examiners (hereafter "Board") received a complaint against Afeworki Kidane, D.O. (hereafter "Respondent"). On June 7, 2012 and July 27, 2012, the Board noticed Respondent of an investigation into the complaints. On July 6, 2012 and August 24, 2012, the Board received Respondent's responses to the complaints.

On November 19, 2013, the Board invited Respondent to attend an Investigative Hearing on these matters. The initial review was January 25, 2014. Respondent was present, participated in the Investigative Hearing and appeared with counsel, Mr. Kraig Marton.

After hearing testimony from Respondent and considering the documents and evidence submitted, the Board voted to enter the following Findings of Fact, Conclusions of Law, and Order.

JURISDICTIONAL STATEMENTS

1. The Board is empowered, pursuant to A.R.S. § 32-1800 et seq., to regulate the practice of osteopathic medicine in the State of Arizona, and the conduct of the persons licensed, registered, or permitted to practice osteopathic medicine in the State of Arizona.

2. Respondent is the holder of License No. 4458 issued by the Board for the practice of osteopathic medicine in the State of Arizona.

FINDINGS OF FACT - Case No. DO-12-0081A

3. On June 7, 2012, the Board received a complaint against Respondent alleging that Respondent was overprescribing medications to patient, C.J.

4. Patient C.J., a 21 year-old female, began treatment with Respondent on March 24, 2011 with a chief complaint of back pain.

5. Respondent continued to prescribe controlled substances to this young patient (21 years old) even after Respondent had been warned by her probation officer she was associating with people that do "drugs in the car."

6. The patient's intake history was cursory.

7. There were no drug screens ordered or performed.

8. A pharmacy audit was not performed on the patient.

9. The patient was never sent for consultation regarding her back pain.

10. The patient was never referred to a pain medicine specialist.

11. The history of chief complaint and physical exam were exactly the same on every office visit in the same electronic medical record format.

12. The patient was never asked about her functional status.

13. The patient was not sent for x-rays.

14. There was no laboratory drawn.

15. There is no evidence that Respondent ever discussed possible side-effects, complications, or alternative treatments with the patient.

16. It does not appear that the patient was ever tried on any anti-inflammatory or non-controlled substances.

FINDINGS OF FACT - Case No. DO-12-0111A

1 17. On June 7, 2012, the Board received a complaint against Respondent from a
2 pharmacist who had concerns about Respondent's prescribing controlled substances,
3 Oxycodone, to young patients.

4 18. A chart review was conducted to evaluate Respondent's prescribing practices.

5 19. Respondent, for the most part, used short acting opioids for chronic pain and in
6 at least one case, used both Percocet and Oxycodone together (I.E.).

7 20. There were no urine drug screens on several patients (G.W., C.S., R.R., B.P. (DOB
8 5/6/90), B.P. (DOB 10/1/80), V.H., S.D., J.M., C.K., K.H., D.K.).

9 21. When patients came to Respondent, quite often they were already on
10 Oxycodone and Xanax and usually were complaining of low back pain due to a motor vehicle
11 accident. Respondent continued the patients on these medications.

12 22. Respondent started patients on Oxycodone as a first line treatment for pain
13 (G.W., R.R., C.K., K.H., and P.O.).

14 23. There was no laboratory performed on several patients (G.W., B.P.(DOB
15 10/1/80), P.O., C.K., K.H., J.M.).

16 24. There was no controlled substance agreement on several patients (C.S., B.P.(DOB
17 10/1/80), and V.H.).

18 25. There was no pharmacy audit on several patients (C.S., R.R., M.M., and J.C.).

19 26. A function-based approach was not used (All patients).

20 27. X-rays and diagnostic studies were usually performed or at least ordered;
21 however, many times the MRIs were ordered but not performed (G.W., J.M., and M.J.).

22 28. One patient had a positive urine drug screen for multiple prescriptions and illegal
23 substances and her controlled substances were continued (A.P.).

24 29. Two patients had positive urine drug screens for illegal substances (marijuana)
25 yet controlled substances were continued (P.O. and M.M.).

1
2 **CONCLUSIONS OF LAW**

3 9. The conduct described above constitutes unprofessional conduct and is a
4 violation of A.R.S. § 32-1854 (6), which states "Engaging in the practice of medicine in a
5 manner that harms or may harm a patient or that the board determines falls below the
6 community standard."
7

8 10. The conduct described above is also a violation of unprofessional conduct
9 pursuant to A.R.S. § 32-1854 (36), which states "Prescribing or dispensing controlled substances
10 or prescription-only medications without establishing and maintaining adequate patient
11 records."
12

13 11. The conduct described above is also a violation of unprofessional conduct
14 pursuant to A.R.S. § 32-1854 (38), which states "Any conduct or practice that endangers the
15 public's health or may reasonably be expected to do so."
16

17 **ORDER**

18 Pursuant to the authority vested in the Board,

19 **IT IS HEREBY ORDERED** that Afeworki Kidane, D.O, holder of osteopathic medical
20 License number 4458 is HEREBY ORDERED AS FOLLOWS:

21 1. Respondent shall be restricted from prescribing opioid medications, Class 2
22 and 3, and may not issue any medical marijuana certifications. This restriction includes that any
23 allied health professionals supervised by Respondent are also prohibited from prescribing these
24 medications.
25

2. Respondent shall undergo and complete an evaluation at CPEP or PACE, within
6 (six) months of the effective date of this Order, of his pain management practice that would
include his prescribing habits and opioid prescribing. Respondent will have the program send a

1 complete report to the Board's Executive Director. All costs of the evaluation will be at the
2 Respondent's expense. If recommendations for additional Continuing Medical Education or
3 training are recommended, Respondent will provide the Board's Executive Director with a
4 written plan for meeting any recommendations made. Any CME hours or further training must
5 be approved in advance by the Board's Executive Director, and shall be in addition to the hours
6 required for biennial renewal of his osteopathic medical license. The CMEs will be completed at
7 the Respondent's expense.

8 3. Respondent may request, in writing, the Board reinstate his prescribing
9 privileges after completing the evaluation and recommendations made by the evaluation.

10 4. **Costs:** Respondent shall bear all costs incurred regarding compliance with this
11 Order.

12 5. **Obey All Laws:** Respondent shall obey all federal, state and local laws, and all
13 rules governing the practice of medicine in the State of Arizona.

14 6. **Ceasing Practice in the State of Arizona:** In the event that Respondent ceases
15 to practice medicine in the State of Arizona, by moving out of state, failing to renew his license,
16 or maintaining an Arizona license but ceasing to practice clinical medicine or administrative
17 medicine requiring licensure, Respondent shall notify the Board that he has ceased practicing in
18 Arizona, in writing, within 10 days of ceasing to practice. In its sole discretion, the Board may
19 stay the terms of this Order until such time as the Respondent resumes the practice of
20 medicine in Arizona, or may take other action to resolve the findings of fact and conclusions of
21 law contained in this Consent Agreement and Order for Probation.

22 7. **Failure to Comply / Violation:** Respondent's failure to comply with the
23 requirements of this Order shall constitute an allegation of unprofessional conduct as defined
24 at A.R.S. § 32-1854(25) and proven violations may be grounds for further disciplinary action
25 (e.g., suspension or revocation of license).



ISSUED THIS 30th DAY OF JANUARY, 2014.
ARIZONA BOARD OF OSTEOPATHIC EXAMINERS
IN MEDICINE AND SURGERY

By: Jenna Jones
Jenna Jones, Executive Director

NOTICE OF RIGHT TO REQUEST REVIEW OR REHEARING

Any party may request a rehearing or review of this matter pursuant to A.R.S. § 41-1092.09. The motion for rehearing or review must be filed with the Arizona Board of Osteopathic Examiners within thirty (30) days. If a party files a motion for review or rehearing, that motion must be based on at least one of the eight grounds for review or rehearing that are allowed under A.A.C. R4-22-106(D). Failure to file a motion for rehearing or review within 30 days has the effect of prohibiting judicial review of the Board's decision. Service of this order is effective five (5) days after date of mailing. A.R.S. § 41-1092.09(C). If a motion for rehearing or review is not filed, the Board's Order becomes effective thirty-five (35) days after it is mailed to Respondent.

Original "Findings of Fact, Conclusions of Law and Order"
filed this 30th day of January, 2014 with:

Arizona Board of Osteopathic Examiners
In Medicine and Surgery
9535 East Doubletree Ranch Road
Scottsdale AZ 85258-5539

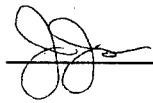
1
2 Copy of the "Finding of Fact, Conclusions of Law and Order" sent by certified mail, return
3 receipt requested, this 30th day of January, 2014 to:

4 Kraig Marton, Esq.
5 Jaburg and Wilk
6 3200 N. Central Ave, #2000
7 Phoenix, AZ 85012

8 Copies of this "Findings of Fact, Conclusions of Law and Order" sent this 30th day of January,
9 2014 to:

10 Afeworki Kidane, D.O.
11 Address of Record

12 Jeanne Galvin, AAG
13 Office of the Attorney General CIV/LES
14 1275 West Washington
15 Phoenix AZ 85007

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